

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

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GETTES MARSHALL,	:	CASE NO. 1:06 CV 0064
	:	
Plaintiff,	:	
	:	<u>ORDER GRANTING PLAINTIFF</u>
-vs-	:	<u>GETTES MARSHALL'S UNOPPOSED</u>
	:	<u>MOTION FOR LEAVE TO FILE AN</u>
	:	<u>AMENDED COMPLAINT (ECF 6), AND</u>
PLASTIPAK PACKAGING, INC., et al.,	:	<u>DENYING AS MOOT DEFENDANT</u>
	:	<u>PLASTIPAK PACKAGING, INC.'S</u>
Defendants.	:	<u>MOTION TO DISMISS (ECF 4)</u>
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UNITED STATES DISTRICT JUDGE LESLEY WELLS

On 10 January 2006, defendant Plastipak Packaging, Inc.'s ("Plastipak"), removed this personal injury action from state court based upon diversity of citizenship. (ECF 1). Before the Court is Plastipak's motion to dismiss count one of the plaintiff's complaint which alleges a workplace intentional tort claim under Ohio common law. (ECF 4). Plaintiff opposed Plastipak's motion to dismiss (ECF 8), and filed a motion for leave to file an amended complaint (ECF 6). Plastipak did not file a brief in opposition to the plaintiff's motion for leave to file an amended complaint.

In its motion to dismiss, Plastipak argues that the allegations of plaintiff's initial complaint do not satisfy the heightened pleading standard for employees seeking to bring intentional tort claims against their employers. (ECF 4). Plaintiff requests leave to file an amended complaint in order to "provide further factual allegations in support of his claim for an employer intentional tort." (ECF 6, at 3). A case management conference has not yet been held in this case, and no deadlines have been set. There

is no reason to deny plaintiff's request to amend his complaint to correct any possible deficiencies identified in Plastipak's motion to dismiss.

For the reasons set forth above, the plaintiff's unopposed motion for leave to amend his complaint (ECF 6) is granted, and Plastipak's motion to dismiss (ECF 4) is denied as moot.

IT IS SO ORDERED.

/s/Lesley Wells  
UNITED STATES DISTRICT JUDGE

Dated: 7 March 2006